THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 5043 of 2000

Date: 4.8.2005

Between:

B. Prabhakar, S/o. Vittal Sharma
r/o H.No. 3-5-155, Krishnarao Complex,
Jeedimetla Village & Mandal , Qutubullapur Municipality, Ranga Reddy District.

..... PETITIONER

AND

1 The Presiding Officer
Labour Court - II, Hyderabad & others.

…. Respondents

THE HON'BLE MR JUSTICE C.V.RAMULU

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ORDER:

This writ petition is filed by the Workman being aggrieved by the Award passed by the Labour Court-II, Hyderabad in I.D. No. 144 of 1996, dated 30.6.1999, wherein the petition filed by the Workman under Section 2A(2) of the Industrial Disputes Act, 1947 (for short 'the Act') was dismissed and no relief was granted.

It is the case of the petitioner that he was appointed as Conductor in A.P.S.R.T.C., with effect from 1.5.1985. His services were regularized in the said cadre and he has been discharging his duties to the satisfaction of his superiors. While so, when he

was conducting bus on the route Kamareddy to Konapur, a check was exercised at Stage No.5/6 at Konapur Cross Roads at about 9.25 hours. The Checking Officials found certain cash and ticket irregularities and issued a Memo dated 18.9.1995. On the basis of the Memo of the Checking Officials, a charge sheet was issued on 27.9.1995 enumerating the following charges:

> "For having failed to issue tickets to four passengers even after collecting the requisite fare of Rs.1.75 each at boarding point itself who boarded in your bus at Fareedpet and bound for Ambaripet ex-stages 5 to 6, while you were conducting the bus No.8873 on route Kamareddy-Konapur on 18.9.1995 which constitutes mis-conduct under Reg. 28(x) of A.P.S.R.T.C. Employees (Conduct) Regulations, 1963.
>
> For having violated the rule issue and start, while you were conducting the bus No. 8873 on route KMR-Konapur on 18.9.95 which constitutes misconduct under Reg. No.28(vi)(a) of APSRTC Employees (Conduct) Regulations, 1963."

Though the petitioner submitted explanation denying the allegations, the 2nd respondent appointed an Enquiry Officer to conduct a detailed enquiry into the matter. The Enquiry Officer without there being any acceptable evidence available held the petitioner guilty of the charges. Basing on the Enquiry Officer's Report, the Depot Manager, after completing the formalities issued final proceedings dated 20.12.1995 removing the petitioner from the service. Aggrieved by the same, petitioner filed an appeal before the competent authority. However, the said appeal was also dismissed. Having no other option, the petitioner raised a dispute before the Labour Court-II and filed claim petition under Section 2A(2) of the Act and the same was taken on file as I.D. No.144 of 1996.

Before the Labour Court, no oral evidence was let in either by the workman or the management. However, Exs. M1 to M18 were marked on behalf of the management. On the basis of the evidence on record, the Labour Court came to the conclusion that the charges framed against the petitioner are proved and that the past conduct of the petitioner does not inspire the Court to interfere with the removal order passed by the authorities. Therefore, it rejected the claim petition. Hence, this writ petition.

Though, no counter is filed, learned Standing Counsel for the respondent-management strenuously contended that the Award passed by the Labour Court is just and proper in the facts and circumstances of the case and it does not call for any interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the Award passed by the Labour Court and other material placed on record.

At the outset, I am of the opinion that the Labour Court has not committed any error in coming to the conclusion that the charges levelled against the petitioner are proved. However, the charges were very trivial in nature and the Labour Court ought to have granted some relief, at least, fresh appointment, in the facts and circumstances of the case while exercising its powers under Section 11A of the Act instead of rejecting the claim of the petitioner in toto.

As per the charges as noticed above, the petitioner having collected Rs.1.75ps., from four passengers at the Boarding point itself, failed to issue tickets to them. But, even according to the charges, the passengers boarded at Stage No.5 and were bound for Stage No.6. It is also an admitted fact that the distance between the place of boarding and the place of check, i.e., stage Nos. 5 and 6, was not even one kilo meter. Even under mofussil services, at least, one fare stage can be allowed for the purpose of completing the issue of tickets. In this case, no such course was adopted by the checking officials. Once the check was exercised within a distance of one kilo meter, it cannot be said that there was any intention on the part of the petitioner to grab the revenues of the Corporation, but it can easily be construed that the petitioner was in the process of issuing tickets as stated by him. Even the T.T.Is, who conducted the check also admitted this aspect.

In view of this, the only charge that is sought to be proved is violation of the rule “issue and start” and nothing more. Under those circumstances, the Labour Court ought not to have rejected the claim of the petitioner only on the ground that his past conduct was not good. May be, the past conduct of the petitioner is not good, but that itself does not mean that unless the present mis-conuct itself is grave, the past conduct need not be looked into. In this case, practically, there was no charge against the petitioner proved, except the “issue and start”. Therefore, the Award passed by the Labour Court in rejecting the claim of the petitioner is arbitrary and illegal. The same shall accordingly stand set aside.

In the result, the writ petition is allowed. The respondent-management in the facts and circumstances of the case and also taking the past service of the petitioner into consideration shall reinstate the petitioner as a fresh conductor. It is needless to

mention that the petitioner is not entitled for continuity of service, back wages and other attendant benefits for any purpose, including the retiral benefits.

The writ petition is accordingly allowed. No costs.

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C.V. RAMULU,J

DATE: 4th August, 2005

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